

OPEN MEETING ITEM



0000103295

COMMISSIONERS
KRISTIN K. MAYES – Chairman
GARY PIERCE
PAUL NEWMAN
SANDRA D. KENNEDY
BOB STUMP

ORIGINAL



RECEIVED
Executive Director

ARIZONA CORPORATION COMMISSION

2009 DEC 23 P 1:31

DATE: DECEMBER 23, 2009

DOCKET NO.: T-20646A-09-0005

TO ALL PARTIES:

ARIZONA CORPORATION COMMISSION
DOCKET CONTROL

Enclosed please find the recommendation of Administrative Law Judge Marc E. Stern. The recommendation has been filed in the form of an Order on:

CVC CLEC, LLC
(EXTENSION OF TIME DEADLINE CONTAINED
IN DECISION NO. 71329)

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Administrative Law Judge by filing an original and thirteen (13) copies of the exceptions with the Commission's Docket Control at the address listed below by 4:00 p.m. on or before:

JANUARY 4, 2010

The enclosed is NOT an order of the Commission, but a recommendation of the Administrative Law Judge to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Open Meeting to be held on:

JANUARY 12, 2010 and JANUARY 13, 2010

For more information, you may contact Docket Control at (602)542-3477 or the Hearing Division at (602)542-4250. For information about the Open Meeting, contact the Executive Director's Office at (602) 542-3931.

Arizona Corporation Commission

DOCKETED

DEC 23 2009

DOCKETED BY	
-------------	--

ERNEST G. JOHNSON
EXECUTIVE DIRECTOR

1200 WEST WASHINGTON STREET, PHOENIX, ARIZONA 85007-2927 / 400 WEST CONGRESS STREET, TUCSON, ARIZONA 85701-1347
www.azcc.gov

This document is available in alternative formats by contacting Shaylin Bernal, ADA Coordinator, voice phone number 602-542-3931, E-mail SBernal@azcc.gov

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 COMMISSIONERS

3 KRISTIN K. MAYES, Chairman
4 GARY PIERCE
5 PAUL NEWMAN
6 SANDRA D. KENNEDY
7 BOB STUMP

8 IN THE MATTER OF THE AMENDED
9 APPLICATION OF CVC CLEC, LLC, FOR
10 APPROVAL OF A CERTIFICATE OF
11 CONVENIENCE AND NECESSITY TO
12 PROVIDE RESOLD LOCAL EXCHANGE
13 AND FACILITIES-BASED LOCAL
14 EXCHANGE TELECOMMUNICATIONS
15 SERVICES.

DOCKET NO. T-20646A-09-0005

DECISION NO. _____

ORDER EXTENDING TIME
DEADLINE CONTAINED IN
DECISION NO. 71329

12 Open Meeting
13 January 12 and 13, 2010
14 Phoenix, Arizona

14 **BY THE COMMISSION:**

15 * * * * *

16 Having considered the entire record herein and being fully advised in the premises, the
17 Commission finds, concludes, and orders that:

18 **FINDINGS OF FACT**

19 1. On October 30, 2009, the Arizona Corporation Commission ("Commission") issued
20 Decision No. 71329 which approved the application of CVC CLEC, LLC ("Company" or
21 "Applicant") for a Certificate of Convenience and Necessity ("Certificate") to provide competitive
22 resold local exchange and facilities-based long distance telecommunications services in Arizona.

23 2. The Commission's approval was conditioned upon the Company procuring and filing
24 a copy of the following documents in a timely fashion:

- 25 • that the Company should procure either a performance bond or an irrevocable
26 sight draft letter of credit equal to \$125,000; and
- 27 • that the Company should docket proof of the original performance bond or
28 irrevocable sight draft letter of credit with the Commission's Business Office
and 13 copies of the performance bond or irrevocable sight draft letter of credit

with Docket Control, as a compliance item in this docket, within 30 days of the effective date of a Decision in this matter. The performance bond or irrevocable sight draft letter of credit must remain in effect until further order of the Commission.

3. The Company's due date for its compliance filing of the document and copies was on November 30, 2009.

4. On November 25, 2009, the Company filed a Motion to Extend Time ("Motion") for 30 days in order to file the above-referenced documentation, until December 30, 2009.

5. The Company's Motion stated that, in organizing the letter of credit, the bank addressed several questions about the proper language for the letter of credit. The Company indicates that they answered all of the bank's questions when they were apprised of them, but stated that they were uncertain that the filing could be made by the November 30, 2009 due date, and requested the 30-day extension of the filing deadline.

6. On December 18, 2009, the Commission's Utilities Division ("Staff") filed its response which recommended approval of the Company's Motion for a total of 60 days indicating that the delay experienced by the Company had been verified during a telephone conversation between Staff and the Company's attorney.

7. Staff is recommending approval of the Company's request for a total extension of 60 days, until January 30, 2010.

8. We believe that the Company's Motion for an extension of time to comply with Decision No. 71329 is reasonable and should be granted as recommended by Staff.

CONCLUSIONS OF LAW

1. The Company is a public service corporation within the meaning of Article XV of the Arizona Constitution and A.R.S. §§ 40-281, 40-282 and 40-285.

2. The Commission has jurisdiction over the Company and the subject matter of the Motion.

3. The Company's request for an extension of time should be granted.

...

...

...

ORDER

IT IS THEREFORE ORDERED that the compliance requirement that CVC CLEC, LLC file a copy of either a performance bond or an irrevocable sight draft letter of credit equal to \$125,000 as required by Decision No. 71329 shall be extended to January 30, 2010.

IT IS FURTHER ORDERED that this Decision shall become effective immediately.

BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

CHAIRMAN

COMMISSIONER

COMMISSIONER

COMMISSIONER

COMMISSIONER

IN WITNESS WHEREOF, I, ERNEST G. JOHNSON, Executive Director of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this _____ day of _____, 2010.

ERNEST G. JOHNSON
EXECUTIVE DIRECTOR

DISSENT _____

DISSENT _____

MES:db

1 SERVICE LIST FOR: CVC CLEC, LLC

2 DOCKET NO.: T-20646A-09-0005

3 Michael T. Hallam
4 LEWIS & ROCA, LLP
40 North Central Avenue, Suite 1900
5 Phoenix, AZ 85004

6 Mark Foster, Esq.
MARK FOSTER, ATTORNEY-AT-LAW
7 702 Rio Grande Street
Austin, TX 78701

8 Janice Alward, Chief Counsel
9 Legal Division
ARIZONA CORPORATION COMMISSION
10 1200 West Washington Street
Phoenix, AZ 85007

11 Steven M. Olea, Director
12 Utilities Division
ARIZONA CORPORATION COMMISSION
13 1200 West Washington Street
Phoenix, AZ 85007

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28